Advisory Action Before the Filing of an Appeal Brief

Application No.	Applicant(s)	
10/714,489	DUONG ET AL.	
Examiner	Art Unit	
FRANK W. LU	1634	

The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because		FRANK W. LU	1634		
1. ☑ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, afficiant, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods: a) ☑ The period for reply expres 3_months from the mailing date of the final rejection. b) ☐ the period for reply expres 3_months from the mailing date of the final rejection. cannot not be such as the statutory period for reply expres later than 31% MONTHS from the mailing date of the final rejection not event, however, will the statutory period for reply expres later than 31% MONTHS from the mailing date of the final rejection. Examiner Note: if low 1 is enacted, check either box (a) or (b). ONLY CHECK BOX (b). WHEN THE FIRST REPLY-WAS FILED WITHIN TWO MONTHS OF THE FIRST REPLY-WAS FILED WITHIN TWO MONTHS or THE FIRST REPLY-WAS FILED WITHIN TWO MONTHS from the mailing date of the final rejection. Examiner may be obtained under 3.7 CFR 1.136(a) and the appropriate extension fee numbers of the second state of the state of the solution of the final rejection of the solution of the solution of the final rejection of the solution of the final rejection of the solution of the reply register to the final rejection of the solution of the final rejection of the final re	The MAILING DATE of this communication appe	ars on the cover sheet with the c	orrespondence add	ress	
a) The period for reply expires 2 months from the mailing date of the final rejection. The period for reply expires on: (1) the mailing date of this Adviscry Action or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. Examinar Nova. If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECT ONE & MPEP POSITION. Extension from the final rejection. Examinar Nova for the set of proposed of determining the period of extension and the corresponding amount of the Set. The appropriate extension fee nave been filed is the date for proposed determining to period of extension and the corresponding amount of the Set. The appropriate extension fee nave been filed is the date for proposed of determining the period of extension and the corresponding amount of the Set. The appropriate extension fee nave been filed is the date for proposed and the proposed from (1) the experiation date of the shortened statutory period for reply originally set in fail Office actions or 2(2) as sat forth in (1) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any extension thereof (37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal was filed on A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal was filed on A brief in compliance with 37 CFR 41.37 (e), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37 (a). **MENDMENTS** In the proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because (a) They raise he issue of new matter (see NO	 The reply was filed after a final rejection, but prior to or on application, applicant must timely file one of the following application in condition for allowance; (2) a Notice of Appe 	the same day as filing a Notice of A replies: (1) an amendment, affidavited al (with appeal fee) in compliance w	Appeal. To avoid abar , or other evidence, w with 37 CFR 41.31; or	hich places the (3) a Request	
nave been filed is the date for purposes of determining the period of extension and the corresponding not of the files. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b). NOTICE OF APPEAL 2.	a) The period for reply expires 3 months from the mailing date b) The period for reply expires on: (1) the mailing date of this A no event, however, will the statutory period for reply expire to Examiner Note: If box 1 is checked, check either box (a) or (dvisory Action, or (2) the date set forth i ater than SIX MONTHS from the mailing b). ONLY CHECK BOX (b) WHEN THE	date of the final rejection	n.	
 2.	have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).				
(a)	2. The Notice of Appeal was filed on A brief in comp filing the Notice of Appeal (37 CFR 41.37(a)), or any exter	nsion thereof (37 CFR 41.37(e)), to	avoid dismissal of the		
 Applicant's reply has overcome the following rejection(s): Newly proposed or amended claim(s) would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s). For purposes of appeal, the proposed amendment(s): a) will not be entered, or b) will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended. The status of the claim(s) is (or will be) as follows: Claim(s) allowed: Claim(s) objected to: Claim(s) rejected: 11-13.17.18 and 20-25. Claim(s) withdrawn from consideration: 14-16 and 19. AFFIDAVIT OR OTHER EVIDENCE ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e). ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1). ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached. REQUEST FOR RECONSIDERATION/OTHER ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s) 	3. The proposed amendment(s) filed after a final rejection, b (a) They raise new issues that would require further cor (b) They raise the issue of new matter (see NOTE below (c) They are not deemed to place the application in beth appeal; and/or (d) They present additional claims without canceling a converse NOTE: (See 37 CFR 1.116 and 41.33(a)).	nsideration and/or search (see NOT w); ter form for appeal by materially red corresponding number of finally reje	E below); lucing or simplifying tlected claims.	ne issues for	
how the new or amended claims would be rejected is provided below or appended. The status of the claim(s) is (or will be) as follows: Claim(s) allowed: Claim(s) objected to: Claim(s) rejected: 11-13.17,18 and 20-25. Claim(s) withdrawn from consideration: 14-16 and 19. AFFIDAVIT OR OTHER EVIDENCE 8. The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e). 9. The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1). 10. The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached. REQUEST FOR RECONSIDERATION/OTHER 11. The request for reconsideration has been considered but does NOT place the application in condition for allowance because:	5. Applicant's reply has overcome the following rejection(s): 6. Newly proposed or amended claim(s) would be allowable if submitted in a separate, timely filed amendment canceling the				
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